

DDA 76-2619

25 MAY 1976

MEMORANDUM FOR: Office of General Counsel

ATTENTION :

FROM :
Assistant for Information, DDA

SUBJECT : Developments Under NSSM-229

REFERENCE : OGC 76-2484 dtd 12 May 76, same subject

Per your reference request and in confirmation of our discussion on 18 May, I submit the following comments on Executive Order 11652.

Section 1 - Security Classification Categories:

Although there are difficulties with the definitions, major changes in this section would undoubtedly be too drastic a step in the present Congressional environment. As regards the inclusion of Sources and Methods examples in each of the definitions, this was not agreed to by Mr. on the basis it would jeopardize the concept of NSCA and Sources/Methods protection not necessarily being linked.

Section 2 - Authority to Classify:

I agree that some restriction on classification authority is necessary; basically, I find no problems with this section.

Section 3 - Authority to Downgrade and Declassify:

No problems with this section.

Section 4 - Classification:

I think it's time the Agency face up to paragraph marking. The military has been doing this for years with little effort and much success, particularly where segregable

portions are required for information release. In addition to assisting the FOI reviewer, such markings will help the derivative classification problem in the reporting business. If each paragraph is marked with its level of classification, a researcher could tell immediately the level of extracted material and the classification to be carried over.

Section 5 - Declassification and Downgrading:

It should be clear that there are two distinct categories of information to be considered: (1) classified intelligence product subject to the General Declassification Schedule (GDS) and (2) sources and methods information which should not be subject to the GDS. I have no problems with the time limits set forth in section 5 for information on which a declassification date can be determined, namely, category 1 intelligence product where sources and methods are not revealed.

I object to the GDS for category 2 material and agree it should be exempted. Since a blanket exemption for sources and methods information is not a viable concept for the times, I think our present methods of exempting such material need to be reviewed. Presently, documents are stamped "E2 IMPDET" meaning Exemption 5(B)(2) applies but a declassification date is impossible to determine. I suggest we change the stamp so that it reflects the fact that the document is subject to declassification review thirty years from origination. This might have a psychological effect of forcing originators' attention to the eventual review problem.

The four exemptions seem sufficient and I concur in your expanded language concerning 5(B)(4) personal jeopardy.

Section 6 - Policy Directives on Access, Marking....:

I find no problems with section 6. Subparagraph G on the requirement for a systematic declassification review was superseded by Executive Order 11905 of February 1976 and will be tackled at the Community level.

Section 7 - Implementation and Review Responsibilities:

As I mentioned in our discussion, I question the need for an ICRC and, more importantly, I'm not confident the ICRC can perform the duties outlined in its charter. The

whole issue of such a review body should be carefully re-examined before a new order is drafted.

Sections 8-15:

I have no problems with these sections.



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ISAS ydc (25 May 1976)

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